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ORIGINAL

June 1, 2001

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

JUN 1 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of *Ex Parte* Presentation
CC Docket No. 96-98
CC Docket No. 98-147

Dear Ms. Salas:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's rules, the Association for Local Telecommunications Service ("ALTS"); Cbeyond Communications, LLC ("Cbeyond"); the Competitive Telecommunications Association ("CompTel"); e.spire Communications, Inc. ("e.spire"); and XO Communications ("XO"), by their attorneys, submit two copies of this notice of an oral *ex parte* presentation made, and written material distributed, in the above-captioned proceedings on May 31, 2001. The *ex parte* presentation was made during a meeting with Chairman Michael K. Powell and Legal Advisor Kyle D. Dixon. The presentation was made by John Windhausen and Jonathan Askin of ALTS; Julia Strow of Cbeyond; H. Russell Frisby, Jr. of CompTel; James C. Falvey of e.spire; R. Gerard Salemme of XO, and by Brad Mutschelknaus, Jonathan Canis and Ross Buntrock of Kelley Drye & Warren LLP.

During the presentation, the parties discussed positions set forth in their comments filed in the above referenced proceedings. Specifically, the parties urged the Commission to establish collocation rules that: (i) allow for the collocation of multifunctional equipment; and (ii) that accommodate cross-connects between telecommunications carriers collocated at the ILEC central office.

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Please do not hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ross A. Buntrock". The signature is fluid and cursive, with the first name "Ross" being the most prominent.

Ross A. Buntrock

cc: Chairman Michael K. Powell
Kyle D. Dixon
John Windhausen
Jonathan Askin
Julia Strow
H. Russell Frisby, Jr.
James C. Falvey
R. Gerard Salemm
International Transcription Services

COLLOCATION REMAND
CC Docket 98-147
CC Docket 96-98

May 31, 2001

Joint Commenters

ALTS, Cbeyond Communications, CompTel,
e.spire Communications, and XO
Communications

Kelley Drye & Warren, LLP

ORIGINAL

Overview

- Meaning of “necessary” under 251(c)(6)
- Collocation of “multifunctional” equipment
- Reaffirm space assignment, separate space, entrance rules
- Necessity of cross-connections for interconnection and access to UNES
- National collocation standards
- Access to *all* unbundled loops, including electronics
- Clarification of subloop unbundling obligations

Meaning of Necessary Under 251(c)(6)

- Should be interpreted in way that gives meaning to 251 obligations (i.e. interconnection and unbundling requirements), not in vacuum.
- Inquiry is *not* what is necessary to interconnect in a minimalist engineering sense, but what is necessary to fulfill purpose of 251(c)(2) and 251(c)(3).
- Limits on 251(c)(6) are:
 - (1) no obligation where space exhaust; (2) technical infeasibility; (3) only “telecommunications carriers;” (4) interconnection for transmission/routing of local exchange/access service; (5) access to UNEs for telecom service.

Collocation of Multifunctional Equipment “Necessary” Under 251

- Should be allowed if collocated for purposes of access to UNEs and/or interconnection; and meets NEBS Level 1 safety standards.
- ILEC should have burden to show equipment cannot technically be collocated or not used for interconnection/access to UNEs.
- ILECs already collocate multi-functional equipment and technological advances are putting multiple functionalities in single and smaller boxes.
- Denial equals increased costs for CLECs and inefficient network architectures.

Commission Should Reaffirm Space Assignment, Separate Collocation, and Separate Entrance Rules

- Non-discrimination requirements of 251 dictate that CLECs have ability to choose their own collocation space within the central office, just like ILECs do.
- Technical impossibility of a particular collocation arrangement or space exhaust are only legitimate reasons for denial of space.
- As Commission has determined, “security” considerations do not trump 251(c)(6) obligations.
- Commission should adopt the space selection procedures proposed by the Joint Commenters.

Cross-Connections Between Collocators are Necessary for Interconnection and Access to UNEs

- Competitive transport and dark fiber providers must be allowed to collocate and cross-connect to other CLECs collocated at the ILEC central office.
- Especially important in light of RBOCs continuing efforts to “de-list” interoffice transport as a UNE and lack of EEL access.
- ILECs have allowed some carriers to collocate and cross-connect, but voluntary ILEC commitments are not enough.
- Solutions: Require ILECs to tariff connection service; establish cross-connect UNE; allow CLECs to designate common manhole for access to C.O. and each other.

Commission Should Adopt Additional National Collocation Standards

- National provisioning standards and space reservations policies for *all* types of collocation, not just caged, are necessary.
- Collocation delays equal delays in turning up service and impair ability of carriers to attract investment capital.
- 90 day caged interval should be supplemented by:
 - 60 day interval for cageless, virtual and remote
 - 30 day interval for modifications to existing arrangements
 - States may establish shorter intervals, which would give rise to a rebuttable presumption that the interval is feasible for the ILEC territory-wide.

Commission Should Clarify that the Act Requires Unbundled Access to All Loops and Subloop Capabilities

- Loop unbundling rules should require access to not only high capacity loops, but also to optical wavelengths generated by DWDM and similar equipment
- UNE Remand Order contemplated loop definition that applies equally to then-existing as well as new technologies
- All subloop features, functions including transmission speeds and quality of service classes must be unbundled
- Subloop unbundling should be facilitated by requiring physical and virtual collocation at remote terminals and allowing for cross-connections at the RT.

ALTS AGENDA -- 2001

Primary Objective: Enforcement of Market-Opening Requirements of Telecom Act

- **ILEC Compliance with UNE Rules**
 - Establish ordinary, commercial, self-executing performance metrics for UNE and wholesale service provisioning
 - Grant ALTS' Petition on Loop Provisioning, submitted in May, 2000, in an effort to resolve crucial network obstacle to competitive entry -- timely and cost-effective access to loop plant
 - Adopt order to ensure CLEC access to next-generation loop architecture
 - Immediately dismiss SBC/Verizon/BellSouth Petition on High Cap Loops and Transport
 - Send message that UNE removal will not be reviewed for 3 years
- **ILEC Compliance with Collocation Obligations**
 - Ensure Collocation of Multifunction Equipment
 - Ensure CLEC-CLEC cross-connects on ILEC premises
 - Eliminate loopholes allowing excessive charges for collocation (*e.g.*, collocation power charges)
- **Develop and Enforce Special Access Provisioning Guidelines**
 - Current ILEC procedures for provisioning Special Access undermines CLECs' ability to compete.
- **Enforce ILEC Compliance with EEL Order**
 - CLECs frustrated by ILEC flagrant disregard for FCC EEL Order
- **Enforce Building Owner Compliance with Competitive Networks Order and Obligations to Provide Competitive Access to MTEs**
- **Ensure Rights-of-Way Practices of Municipalities do not Thwart Competition**
 - Establish an expedited process for quickly resolving preemption petitions under Section 253
 - Adopt clear guidelines and/or rules clarifying what municipal actions violate Section 253(a)
- **Inter-Carrier Compensation**
 - Overturn decision in *AT&T v. BTI*
 - Ensure IXC payment of access charges
 - Ensure ILECs do not game Recip Comp Order -- ensure payment of compensation for terminating ISP-bound traffic
 - New regulatory regime to be implemented simultaneously in a competitively neutral manner
- **Ensure Penalties Adequately Compel Compliance**
 - Penalties must be more than ILEC "cost of business"
 - Make information on ILEC noncompliance and penalties readily accessible
 - Make list and issues of pending Enforcement Bureau formal complaints publicly available
 - Ensure no RBOC backsliding after 271 approval
 - Ensure timely resolution of complaint proceedings